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BEFORE THE
Federal Communications Commission APR 16 1997
 WASHINGTON, D.C. 20554

FEDERAL COMMUNICATIONS COMMISSION
 OFFICE OF SECRETARY

In the Matter of)
)
 Amendment of the Commission's Rules)
 Regarding Multiple Address Systems)

WT Docket No. 97-81

To: The Commission

COMMENTS
 OF
DELMARVA POWER AND LIGHT COMPANY

DELMARVA POWER AND LIGHT COMPANY

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Date: April 16, 1997

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DELMARVA POWER AND LIGHT COMPANY

Delmarva Power and Light Company (Delmarva), by and through its undersigned counsel and pursuant to Section 1.415 of the Rules and Regulations of the Federal Communications Commission (FCC), 47 CFR § 1.415, hereby submits these Comments on the FCC's Notice of Proposed Rule Making in the above captioned proceeding.

I. Statement of Interest

1. Delmarva is an electric utility providing service to 400,000 customers across 6,700 square miles, including most of the Delaware-Maryland-Virginia Peninsula. In order to facilitate its provision of electricity to customers in a safe, efficient and reliable fashion, Delmarva has licensed and implemented a number of wireless communications systems. These systems include an 800 MHz Land Mobile Radio network, a Private Operational Fixed Microwave network, and a Multiple Address System (MAS).

Delmarva's MAS network is used in a private, internal capacity to

conduct supervisory control and data acquisition (SCADA) activities, permitting Delmarva to monitor and control its utility infrastructure with a maximum of efficiency and reliability.

II. Discussion

2. Delmarva applauds the FCC's goals in this proceeding of maximizing spectrum use, providing for operational flexibility and encouraging technological advancement in the MAS bands. Certain of the FCC's proposals, however, raise issues of concern to Delmarva as a private use licensee of MAS spectrum. Accordingly, Delmarva is commenting in this proceeding to emphasize the importance of maintaining designated private use spectrum for MAS operations. Specifically, Delmarva urges the FCC to adopt its tentative conclusions concerning exclusively private use in the 928/952/956 MHz bands and to maintain site-by-site licensing in connection with such use. This relief will help to ensure that the critical MAS operations of private users such as Delmarva are maintained.

A. The FCC Should Maintain the Designation of the 928/952/956 MHz Bands for Private Use and Terminate Common Carrier Shared Use in those Bands, as Proposed

3. As part of its review of the entire MAS spectrum, the FCC has raised as an issue in this proceeding the appropriate regulatory treatment to be accorded the 928/952/956 MHz bands. In this connection, the FCC has tentatively concluded that the current use of the band is overwhelmingly private and internal in

nature and that the band should be designated exclusively for private operations, with existing common carrier use to be accorded grandfathered treatment.^{1/}

4. As a private use MAS licensee, Delmarva strongly supports the FCC in these conclusions. Delmarva's ability to maintain and expand its MAS operations is critical to the ongoing utility activities in which Delmarva is engaged. Modern utility operations have become increasingly dependent upon the use of wireless systems to gain information and control infrastructure. SCADA operations will continue to offer to utilities such as Delmarva a highly efficient and reliable means of maintaining safety and continuity of service. Such operations are, in turn, dependent upon the availability of spectrum suitable for this purpose.

5. It is therefore vital that MAS spectrum be designated for private use. As the FCC's analysis of the license holdings in the 928/952/956 MHz bands demonstrates, there is currently extensive ongoing private use in these bands. Current and future licensees engaged in such use must be able to access the spectrum necessary to engage in these vital operations. The only reasonable means of assuring this end is to maintain an exclusive allotment of spectrum; private use licensees' MAS operations would be jeopardized if they were forced to compete for spectrum with commercial licensees, a group with markedly different

^{1/} Notice of Proposed Rule Making at 12-13.

technical, operational and business needs than private users. This is particularly so in light of the FCC's proposals for the remainder of the MAS bands. The FCC has, for example, proposed to auction on a geographic area basis licenses for MAS bands in which subscriber based services are prevalent.^{2/} Permitting continued access by commercial MAS licensees to the spectrum in the 928/952/956 MHz bands will almost certainly lead to a spectrum grab by commercial use licensees, such as the one which occurred in the private use and general categories in the 800 MHz band following the SMR category freeze.

B. The FCC Should Maintain Site-by-Site Licensing for Private Use Licensees

6. In the Notice, the FCC proposes to institute geographic area licensing in connection with MAS bands in which the principal use will involve, or is reasonably likely to involve, subscriber based services.^{3/} The FCC goes on to invite comment on whether geographic area licensing is appropriate in the 928/952/956 MHz bands, both in the event that those bands are found to involve subscriber services and in the event that they are not.^{4/}

^{2/} Id. at 11 and 51.

^{3/} Id. at 14.

^{4/} Id. at 15.

7. Geographic area licensing is not appropriate for the 928/952/956 MHz band in either case. As discussed above, Delmarva urges the FCC to adopt its conclusion concerning private use in the 928/952/956 MHz bands. Whether or not the FCC does so, however, geographic area licensing is not workable for those bands. Private use licensees such as Delmarva are engaged in critical activities which are supported by their MAS systems. The possibility of a geographic licensing in the 928/952/956 MHz bands by subscriber based providers poses a serious threat to the continued viability of these activities.

8. Private use licensees must have a spectrum home that will afford flexibility in spectrum use, so that they can grow and refine their systems as appropriate to their operations. Under the FCC's typical geographic licensing framework, such licensing will not afford the necessary flexibility to any but the geographic licensee, whose interests will lie in maximizing service to its subscribers. Upon the award of the geographic license, incumbent licensee systems will effectively be "frozen" from a licensing standpoint, with expansion or substantial modification of their system left to the uncertainties of reaching agreement with the geographic licensee.

9. Private use licensees simply cannot operate their systems effectively in such a context. With site-by-site licensing, on the other hand, spectrum is available until it is licensed as it is needed by private users. This method has proven to be a successful mechanism for private use licensees and

geographic licensing offers no advantage. Accordingly, site-by-site licensing should be maintained for the 928/952/956 MHz bands.

C. If Geographic Licensing is Imposed, Incumbent Private Use Licensees Must be Protected.

10. In the event that the FCC is inclined to impose geographic area licensing and/or auctions upon the 928/952/956 MHz bands, and Delmarva strongly urges the FCC not to adopt either of these measures, the interests of incumbents such as Delmarva must be protected. As proposed in the Notice of Proposed Rule Making, the FCC should adopt interference protection criteria for incumbent systems consistent with those currently in place in the FCC's rules.^{5/} Additionally, the FCC should put procedures in place to ensure that interference problems can be addressed promptly and to the satisfaction of the incumbent.

11. Delmarva notes that currently the FCC's interference provisions are directed to the coordination phase of licensing. The FCC's proposals in connection with geographic area licensing do not make clear whether formal coordination will be required for the construction of new master sites by the geographic licensee within the EA. The existing MAS rules, furthermore, do not provide for formal procedures to resolve interference disputes. In the event that the FCC establishes geographic

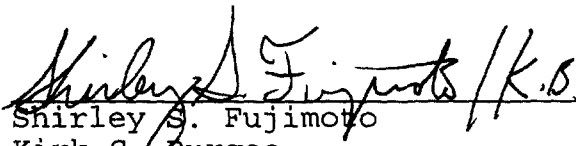
^{5/} 47 CFR Section 101.105(c)(3).

licensing in the 928/952/956 MHz bands, therefore, it must establish sufficient measures to ensure that incumbents will be adequately protected from interference, both by the establishment of separation criteria and the implementation of procedures to resolve conflicts.

WHEREFORE, THE PREMISES CONSIDERED, Delmarva Power and Light Company urges the Commission to consider these Comments and to proceed in a manner consistent with the views expressed herein.

Respectfully submitted,

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